

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

JOSEPH KENT,

Plaintiff,

v.

POOLTOGETHER, INC.; DHARMA LABS,
INC.; OZONE NETWORKS, INC.;
LEIGHTON CUSACK; KAIN WARWICK;
STANISLAV KULECHOV; DRAGONFLY
DIGITAL MANAGEMENT, LLC;
NASCENT US, LLC; NASCENT LIMITED
PARTNERSHIP; STICHTING MAVEN 11
FUNDS; GALAXY DIGITAL TRADING
HK LIMITED, LP; PARAFI CAPITAL, LP;
and COMPOUND LABS, INC.,

Defendants.

Case No. 21-cv-6025-FB-CLP

**DECLARATION OF ANDY LEGOLVAN IN SUPPORT OF DEFENDANT
POOLTOGETHER INC.'S MOTION (1) TO COMPEL ARBITRATION, OR
ALTERNATIVELY, (2) TO DISMISS PLAINTIFF'S SECOND AMENDED
COMPLAINT, OR ALTERNATIVELY, (3) TO STRIKE PLAINTIFF'S CLASS
ALLEGATIONS**

DECLARATION OF ANDY LEGOLVAN

I, Andy LeGolvan, hereby declare as follows:

1. I am an associate with the law firm Paul Hastings, counsel of record for Defendant PoolTogether Inc. I am over 18 years of age and competent to make this declaration. I have personal knowledge of the matters set forth in this declaration, and if called upon as a witness, I could and would testify competently to them.

2. Defendant filed its letter motion requesting a pre-motion conference on December 16, 2021, asserting, among other things, that Plaintiff consented to Defendant's Terms of Service, which includes an arbitration agreement. Dkt. No. 31. The following day, counsel for Plaintiff inquired about Defendant's arbitration position, resulting in an informal exchange of information and positions. We do not intend to burden the Court with all of the correspondence between the parties except to the extent necessary to provide background for the information and evidence being submitted with this declaration.

3. On December 21, 2021, Plaintiff's counsel sent a letter to Defendant's counsel enclosing online file-share links to access several computer-screen-recorded videos, including (1) a video allegedly taken by Plaintiff on October 21, 2021, and (2) a video allegedly taken by Plaintiff's "investigator" on December 20, 2021. A true and correct copy of the letter dated December 21, 2021, is attach hereto as **Exhibit 1**. My office downloaded and saved these videos.

4. A true and correct copy of the video recording purporting to show Plaintiff's deposit titled, "Copy of Screen Recording 2021-10-21 at 11.43.20 PM," is attached hereto as **Exhibit 2**.

5. A true and correct copy of the video purporting to show the investigator's deposit titled, "Copy of Screen Recording 2021-12-20 at 11.19.54 PM," is attached hereto as **Exhibit 3**.

6. The videos are being submitted to the Court's clerk via a file-transfer procedure with a cover submission titled, "Notice of Filing of Electronic Files with the Clerk."

7. In response to the letter sent by Plaintiff's counsel on December 21, 2021, that same day our office asked Plaintiff's counsel by email to "send any other videos or screenshots of Mr. Kent's interaction with the PoolTogether websites/interface, or otherwise confirm that there are none[.]" In response that same day by email, Plaintiff's counsel identified and transmitted screenshots and an additional video purporting to record Plaintiff's interaction with Defendant's website. Plaintiff's counsel described the additional video as follows: "Regarding other videos, we have only one other. On October 19, Kent attempted to transfer money. His 'authorizing transaction' went through but the 'deposit' itself did not because Kent evidently lacked sufficient gas money. He recorded that process, and the recording is in the folder." A true and correct copy of this email correspondence is attached hereto as **Exhibit 4**.

8. Defendant's counsel sent a letter to Plaintiff's counsel on December 22, 2021, responding to Plaintiff's positions as to the videos and the Terms of Service. A true and correct copy of the letter sent on December 22, 2021, is attached hereto as **Exhibit 5**.

9. Thereafter, on January 3, 2022, Plaintiff's counsel sent to Defendant's counsel an additional video titled, "Screen Recording 2021-12-23 at 1.37.53 PM." A true and correct copy of this video is attached hereto as **Exhibit 6**. As with the two videos described in paragraphs 4 and 5, this video is also being submitted to the Court's clerk via a file-transfer procedure with a cover submission titled, "Notice of Filing of Electronic Files with the Clerk."

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 19, 2022, in San Diego, California.

By: 
Andy LeGolian